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ART UNIT	PAPER NUMBER
2628	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
	10/003,092	OSTERMANN ET AL.
Office Action Summary	Examiner	Art Unit	
	Roberta Prendergast	2628	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 December 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15, 20-28 and 30-33* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15, 20-28 and 30-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 20-24, 27, 28, and 30-33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over H. Noot and Zs.M. Ruttkay, "CharToon 2.0 Manual", Information

Systems (INS), INS-R0004 January 31, 2000, hereinafter H. Noot et al., in view of

Mayle et al. U.S. Patent No. 6018774, hereinafter Mayle et al., and Poggio et al. U.S.

Patent No. 5416899, hereinafter Poggio et al.

Referring to claim 20, H. Noot et al. discloses a method of enabling sender

customization of an animated entity for use in delivering a multi-media message,

comprised of receiving from the sender an image of an entity to be used as the

animated entity (section 1.1. Overview: page 4, paragraph 6: *Faces*; page 5, paragraph

6: *External Images*; Section 3.8. Component editing: page 29, Figure 11; page 32,

paragraph 9, *Load Image*), requesting the sender to mark a plurality of facial features on

the entity, and receiving the facial features marked by the sender (Section 3.8.

Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3;

page 32, paragraphs 2 and 3), computing a customized model associated with the entity

(Section 1.1. The components and data files of CharToon, page 4, paragraph 1; Section

2.1. Integrated mode and Section 2.2. Arranging windows of components, page 8;

Section 3.1. The principle of creating faces, pages 10-11), and saving the customized

entity (Section 3.1. The principle of creating faces, page 11, paragraph 4; Section 3.6.1.

Opening and saving faces, page 14, *File/Save* and *File/SaveAs*; page 15,

File/More/SaveJavaObject, File/More/SaveJavaObjectAs, File/More/SaveFaceScriptAs,

and File/More/SaveProfileAs), but does not disclose wherein the image received from

the sender is received over a network or storing the customized model in a private

database for restricted access by the sender wherein the receiving of the facial features

marked by the sender further comprising defining, by the sender, a symmetry axis for a

face of the entity such that a rotation of the face is defined in an image plane by

computing an angle between image boundaries and an imaginary line defined by a point

at a chin, a point at a nose tip and a point at a top of a head of the face of the entity.

Mayle et al. teaches receiving from the sender, over a network (figures 1-3;

column 4, lines 9-11, 20-32, and 51-67, i.e. it is understood that the Internet is

comprised of a network of computers), an image of an entity to be used as the animated

entity (column 5, lines 1-1; column 7, lines 7-20; column 10, lines 35-45) and storing the

customized model in a private database for restricted access by the sender (column 5,

lines 19-31, 40-67 and column 6, lines 1-3).

Poggio et al. teaches defining, by the sender, a symmetry axis for a face of the

entity such that a rotation of the face is defined in an image plane by computing an

angle between image boundaries and an imaginary line defined by feature points

(column 4, lines 50-68; column 5, lines 24-52, i.e. a vertical axis of symmetry are

calculated from control points x along the working axes, to determine both the horizontal

and vertical angle of rotation for the input image such that the image of the head is view

face on at an angle of 0°, turned slightly at an angle of 45°and in profile at an angle of

90°).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to combine the method of H. Noot et al. with the

teachings of Mayle et al. and Poggio et al. thereby allowing a variety of processing

steps to be performed by the server (Mayle et al., column 2, lines 1-25; columns 13-14,

lines 47-9), preventing the unauthorized use of personal images (Mayle et al., column 2,

lines 48-63) and obtaining a series of views (or images) of an object/head and

generating animation of the object/head without an explicit 3-D physical based model of

the object/head (Poggio: column 4, lines 45-49).

Referring to claims 21 and 22, the rationale for claim 20 above is incorporated

herein, H. Noot et al., as modified above, teaches a method of enabling sender

customization of an animated entity for use in delivering a multi-media message

comprised of computing a customized model associated with the entity and further

teaches displaying at least one facial expression to the sender of the customized model

after computing a customized model associated with the entity (Section 5.1. Principle

and usage of the Emotion Disc and Section 5.2. Running Emotion Disc, pages 37-38;

page 68, Plate 4). H. Noot et al. Further teaches presenting the sender with an option to

change a magnitude associated with each displayed facial expression (Section 4.1.

Using Face Player, page 35, paragraph 3; Section 5.1. Principle and usage of the

Emotion Disc, pages 37-38; Section 7.4. Emotion Disc, page 55; Section 1.7. .dsc disc

file, page 64; Plate 4, page 68).

Referring to claim 23, the rationale for claim 20 above is incorporated herein, H.

Noot et al., as modified above, teaches a method of enabling sender customization of

an animated entity for use in delivering a multi-media message and further teaches

wherein requesting the sender to mark a plurality of facial features on the entity

comprises requesting the user to mark facial features associated with eye corners, eye

lids, nose, mouth corners, lip boundaries, and hair outline (Section 3.6.6 Operations on

components, page 20, figure 4; Section 3.7.2 Types of components, pages 23-25;

Section 3. Appendix: Color Plates, pages 67-68 (Plates 2.a., 2.b., 3.a. and 3.b.)).

Referring to claim 24, the rationale for claim 20 above is incorporated herein, H.

Noot et al., as modified above, teaches a method of enabling sender customization of

an animated entity for use in delivering a multi-media message as claimed above and

further teaches presenting a proof-animated entity to the sender based on the

customized model (Section 4.2.1 Integrated mode and 4.2.2 Starting Face Player from

Animation Editor, page 35).

Referring to claim 27, the rationale for claim 20 above is incorporated herein, H.

Noot et al., as modified above, teaches a method of creating an animated entity for

delivering a multi-media message from a remote sender to a receiver comprising

receiving from the remote sender an image file, as claimed above, presenting the

sender an option to zoom the image file (Section 3.1. The principle of creating faces

with face editor, page 10 figure 2 and page 11, paragraph 1; Section 3.6.2 Global

drawing options, page 16, paragraphs 3-7; Section 6.2.3 Using the animation parameter

staves, page 42, paragraph 6; Section 6.2.4 Creating a new animation, page 42-43;

Section 6.4.1 Views and zooming, pages 44-45; Section 6.5 Editing an animation, page

46), presenting the sender with a zoomed image file (Section 3.1. The principle of

creating faces with face editor, page 10 figure 2 and page 11, paragraph 1; Section

3.6.2 Global drawing options, page 16, paragraphs 3-7; Section 6.2.3 Using the

animation parameter staves, page 42, paragraph 6; Section 6.2.4 Creating a new

animation, page 42-43; Section 6.4.1 Views and zooming, pages 44-45; Section 6.5

Editing an animation, page 46), requesting the sender to mark features on the image file

in preparation for creating an animated entity (Section 3.1. The principle of creating

faces with face editor, page 10 figure 2 and page 11, paragraph 1; Section 3.6.2 Global

drawing options, page 16, paragraphs 3-7; Section 6.2.3 Using the animation parameter

staves, page 42, paragraph 6; Section 6.2.4 Creating a new animation, page 42-43;

Section 6.4.1 Views and zooming, pages 44-45; Section 6.5 Editing an animation, page

46), and presenting the image file as an optional animated entity when the sender

chooses an animated entity to deliver a multi-media message (Section 1.1. The

components and data files of CharToon, page 5, paragraph 3; Section 4.1. Using Face

Player, page 35; instructing face player to dump each frame as a .gif file allows an

image of the entity to be provided as an option when sender is choosing an entity to

deliver a multi-media message; Sections 4.2.1 Integrated mode and 4.2.2 Starting Face

Player from Animation Editor, page 35; 5.2 Running Emotion Disc, page 38; 6.2.2

Seeing the animated face, page 41).

Referring to claim 28,the rationale for claim 27 above is incorporated herein, H. Noot et al., as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient and further discloses wherein presenting the image file as an optional animated entity comprises presenting the sender with the following background choices for the selected animated entity:

(1) a predefined background, wherein the animated entity is automatically scaled to fill the frame of the window in which it is presented (H. Noot et al. Section 3.1. The principle of creating faces with Face Editor, page 10, figure 2(row 2), and page 11, paragraph 1; Section 3.5. Components, drawing order and rank, page 13, figure 3 and final paragraph; page 70, plate 13; Section 3.6.3 Global drawing operations, page 18, paragraphs 6 and 7; Section 3.6.6 Operations on components, page 19, paragraph 5, and page 21, paragraphs 8-13; Section 3.7.3 Basic components, page 26-27, final paragraph; Section 3.8. Component editing, page 31, paragraph 7: DynamicScaleSpecs, page 32, paragraphs 7-10, and pages 33-34, final paragraph);

(2) a background associated with the received image file, wherein the animated entity has the same size as in the image file (Section 3.6.2 Global drawing options, page 16, paragraph 4, i.e. the size of the background image and the animated entity are unchanged from their original size); and

(3) if the sender selects to zoom the image file, the zoomed image file as the background, wherein the animated entity is presented with the size as given in the zoomed image file (Section 3.6.2 Global drawing options, page 16, paragraph 7, i.e. if the face file is zoomed, the background scenery is zoomed as well).

Referring to new claim 33, the rationale for claim 27 is incorporated herein, H. Noot et al., as modified above teaches a method for performing the steps of claim 27 and further teaches wherein multiple machines are used (page 41, Section 6.2.2 seeing the animated face, 2nd paragraph). It would have been obvious to one having ordinary skill in the art at the time the invention was made that a machine capable of performing the method described would necessarily comprise an apparatus with the means for performing the method.

Referring to claim 30, it recites the elements in claim 27 and the element numbered (1) in claim 28 and therefore the same rejections apply.

Referring to claim 31, it recites the elements in claim 27 and the element numbered (2) in claim 28 and therefore the same rejections apply.

Referring to claim 32, it recites the elements in claim 27 and the element numbered (2) in claim 28 and therefore the same rejections apply.

Claims 1, 2, 4-6, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot et al. in view of Mayle et al. and Poggio as applied to claims 20-24 above, and further in view of Ming Ouhyoung et al., "Web-enabled Speech Driven Facial Animation", Proc. Of ICAT '99 (int' Conference on Artificial Reality and Tele-existence), pp 23-28, Dec 1999, Tokyo, Japan.

Referring to claim 1, H. Noot et al., as modified above, discloses a method of creating an animated entity for delivering a multi-media message from a sender to a recipient comprising receiving from a sender an image file to a server, sender-assigned

name, gender, category, and indexing information; presenting to the sender a choice of

a generic face model template from a plurality of face model templates; requesting the

sender to mark feature points on the image file; defining, by the sender, a symmetry

axis for a face appearing in the presented image file, such that a rotation of the face is

defined in an image plane by computing an angle between image boundaries and an

imaginary line defined by a point at a chin, a point at a nose tip, and a point at a top of a

head of the face appearing in the presented image file; after the sender marks the

image file, presenting to the sender a preview of at least one expression associated with

the marked image file; if the sender does not accept the image file after the preview,

presenting again the image file and selected model template for the sender to redo or

add marked features on the image file; if the sender accepts the image file after the

preview, presenting the image file as an optional animated entity when the sender

chooses an animated entity to deliver a multi-media message when the sender chooses

an animated entity to deliver a multi-media message, see the rationale for claims 20-22

above which are incorporated herein, but does not teach presenting to the sender both

the image file and a generic template wherein the sender is instructed to mark the

image file.

Ming Ouhyoung et al. discloses presenting to the sender both the image file and

a generic face model template wherein the sender is instructed to mark the image file

(figures 3 and 4; Section 2.1 Head model fitting, page 24; Section 3.1 Expression editor,

page 25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of H. Noot et al. to include the teachings of Ming Ouhyoung et al. because modifying the method to include presenting to the sender both the image file and a generic face model template would allow the sender to edit the expression on the generic face template by dragging feature points on the face image file.

Referring to claim 2, the rationale for claim 1 is incorporated herein, H. Noot et al, as modified above, teaches a method of creating an animated entity for delivering a multi-media message from a sender to a recipient and further teaches wherein the indexing information relates to enabling the animated entity to be in a searchable database (H. Noot et al. page 56, lines 19-28, i.e. it is understood that Profile Name and Face Name are the indexing information provided for the animated entity which is saved in a profile file and stored in a directory).

Referring to claim 4, the rationale for claim 1 above is incorporated herein, H. Noot et al, as modified above, teaches the method of claim 1 but does not specifically teach wherein requesting the sender to mark features on the image file further comprises instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template.

Ming Ouhyoung et al. discloses instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template (figures 2, 3 and 4; Section 2.1 Head model fitting, page 24; Section 3.1 Expression editor, page 25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of H. Noot et al. to include the teachings of Ming Ouhyoung et al. because modifying the method of creating an animated entity for delivering a multi-media message from a sender to a receiver to include instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template thereby allowing the adjustment of points of the generic facial template to the proper position during editing of the expressions.

Referring to claim 5, the rationale for claim 4 above is incorporated herein, H. Noot et al, as modified above, teaches the method of claim 4 further comprising presenting the image file and the selected model template to the sender and instructing the sender to mark points on the image file corresponding to highlighted points on the selected model template (H. Noot et al. Section 3.7.1 Elements of components, page 22, paragraphs 2, 3, and 4, points on the generic template are color coded) but does not specifically teach instructing sender to mark points until a threshold number of points on the image file have been marked by the sender.

Ming Ouhyoung et al. discloses instructing the sender to mark points until a threshold number of points on the image file has been marked by the sender (Section 2.1 Head model fitting, page 24).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of H. Noot et al. to include the teachings of Ming Ouhyoung et al. thereby allowing the sender to accurately model

facial expressions while reducing the amount of processing time required for marking feature points.

Referring to claim 6, the rationale for claim 5 above is incorporated herein, H. Noot et al, as modified above, teaches the method of claim 5 further comprising, after reaching the threshold number of points on the image file, presenting the sender an option to mark additional points (Section 3.8. Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3; page 32, paragraphs 2 and 3), if the sender chooses to mark additional points, presenting the image file and the selected model template to the sender and instructing the sender to mark additional points on the image file corresponding to highlighted points on the selected model template until a maximum number of points on the image file have been marked by the sender (H. Noot et al., Section 3.7.6 User Defined Composite components, page 32, InsertControlPoints and InsertFixedPoints, assumes a maximum number has been reached when the sender decides to stop marking feature points) and if the sender chooses not to mark additional points, continuing to the step of presenting a preview of the image file, (see rationale for claim 1 for previewing image file).

Referring to claim 12, claim 12 recites the elements of claims 1 and 5 and therefore the rationale for the rejection of claims 1 and 5 is incorporated herein.

Referring to claim 13, claim 13 recites the elements of claims 1 and 12 and therefore the rationale for the rejection of claims 1 and 12 is incorporated herein.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot et al. in view of Mayle et al., Poggio et al. and Ming Ouhyoung et al. as applied to claim 1 above, and further in view of Grayson et al. U. S. Patent No. 5963217.

Referring to claim 3, the rationale for claim 1 above is incorporated herein, H. Noot et al., as modified above, teaches the method of claim 1 but does not teach wherein gender information relates to a default gender of a voice associated with the animated entity.

Grayson et al. teaches wherein gender information relates to a default gender of a voice associated with the animated entity (column 8-9, lines 67-5 and column 9, lines 47-49).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of H. Noot et al. to include the teachings of Grayson et al. because associating a female animated entity to a default female voice or a male animated entity to a default male voice can make messages more interesting and enhances communication (Grayson et al., column 10, lines 24-36).

Claims 7, 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot et al. in view of Mayle et al., Poggio et al. and Ming Ouhyoung et al. as applied to claims 1 and 12 above, and further in view of Francini et al. U. S. Patent No. 6532011.

Referring to claims 7 and 8, the rationale for claim 1 above is incorporated herein, H. Noot et al., as modified above, teaches the method of claim 1 wherein the

color of a component is changed (page 29, Figure 11, i.e. change interior color and

page 33, Sections SetFillColor and SetPolygonColor) and wherein the chosen colors

are added to the image file for use in the animated entity but does not specifically teach

wherein the method of creating an animated entity further comprises presenting the

sender with an option to choose textures for teeth, eyes, and a tongue.

Francini et al. teaches wherein the method of creating an animated entity further

comprises presenting the sender with an option to choose textures for teeth, eyes, and

a tongue (figure 3) wherein the chosen textures are added to the image file for use in

the animated entity (figure 9).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify the method of H. Noot et al. to include the

teachings of Francini et al. because the option of different textures for the teeth, eyes,

and tongue allow for humorous as well as realistic characteristics in animated entities.

Referring to claim 14, the rationale for claims 8 and 12 above are incorporated

herein, H. Noot et al., as modified above, teaches the method of claim 12 further

comprised of presenting the sender with options to modify a texture of teeth, eyes,

and/or tongue (H. Noot et al., Section 3.6.6 Operations on components, page 20, figure

4; Section 3.7.3 Basic components, page 26, paragraphs 4, 7, 9, 11, and 14; Figure 11,

page 29; and Section 6.5. Editing an animation, page 46 modification of animation after

creation implies the ability to modify these textures).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot et al. in view of Mayle et al., Poggio et al. and Ming Ouhyoung et al. as applied to claim 1 above, and further in view of Shaw et al. U. S. Patent No. 6147692.

Referring to claim 9, the rationale for claim 1 above is incorporated herein, H. Noot et al., as modified above, teaches the method of claim 1 as described above, but does not teach wherein the method of creating an animated entity further comprises presenting the sender with an option to choose different teeth from a group of teeth for the animated entity.

Shaw et al. teaches morphing a human face with an animal face (figures 10(A & B), 14(A-D)) wherein the shape of the teeth are morphed as well (Figures 1, 4, and 12-14, i.e. it is understood that making the mouth area larger or smaller would require making the teeth smaller or larger to fit the new mouth shape) but does not specifically teach choosing different teeth from a group of teeth. It would have been obvious to one having ordinary skill in the art at the time the invention was made that realistic morphing of animal and human facial features include realistic morphing of animal and human teeth be included in order to provide animal type teeth for realistic morphing of animal and human facial features.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of H. Noot et al. to include the teachings of Shaw et al. thereby allowing for humorous as well as realistic characteristics in animated entities as well as extend the limited scope of animation techniques to include creating moving morphs, where characters can speak, move, and

emote during the morphing process and to include parametric character creation, where features can be sequentially added to a character the create a wide variety of resulting characters (Shaw et al.; Abstract).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over H. Noot et al. in view of Mayle et al., Poggio et al. and Ming Ouhyoung et al. as applied to claim 1 above, and further in view of Burson et al. U. S. Patent No. 4276570.

Referring to claim 10, the rationale for claim 1 above is incorporated herein, H. Noot et al., as modified above, teaches the method of claim 1 but does not teach wherein the method of creating an animated entity further comprises presenting the sender with an option to choose aging effects associated with the animated entity and using the aging effect to modify the image file to increase or decrease the appearance of the age of the image file according to the option chosen by the sender.

Burson et al. teaches wherein the method of creating an animated entity further comprises presenting the sender with an option to choose aging effects associated with the animated entity and using the aging effect to modify the image file to increase or decrease the appearance of the age of the image file according to the option chosen by the sender (column 3-4, lines 66-9; column 6, lines 17-28).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of H. Noot et al. to include the teachings of Burson et al. because an option to choose aging effects associated with the animated entity and using the aging effect to modify the image file to increase

or decrease the appearance of the age of the image file according to the option chosen

by the sender thereby simulating the realistic appearance of different ages in an

animated entity.

Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable

over over H. Noot et al. in view of Mayle et al., Poggio et al. and Ming Ouhyoung et al.

as applied to claims 1 and 12 above, and further in view of Murata U. S. Patent No.

5638502.

Referring to claims 11 and 15, the rationale for claims 1 and 12 above are

incorporated respectively herein, H. Noot et al., as modified above, teaches the method

of claims 1 and 12 above, but does not teach wherein the method of creating an

animated entity further comprises presenting the sender with an option to modify the

appearance of weight of the animated entity and modifying the image file to increase or

decrease the appearance of weight of the animated entity according to the option

chosen by the sender.

Murata teaches wherein the method of creating an animated entity further

comprises presenting the sender with an option to modify the appearance of weight of

the animated entity and modifying the image file to increase or decrease the

appearance of weight of the animated entity according to the option chosen by the

sender (figures 17, 20, 24(elements SK8-10), 26(A-C), 27(A & B); column 19, lines 51).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to modify the method of H. Noot et al. to include the

teachings of Murata because presenting the sender with an option to modify the

appearance of weight of the animated entity and, using the chosen weight by the

sender, modifying the image file to increase or decrease the appearance of weight of

the animated entity according to the option chosen by the sender allowing for the

realistic appearance of different body types in an animated entity.

Response to Arguments

Applicant's arguments filed 12/19/2006 have been fully considered but they are

not persuasive.

Applicant argues, with respect to the 35 U.S.C. 103(a) rejection of claims 20-24,

27, 28, and 30-33 under H. Noot et al. in view of Poggio et al. and Mayle et al., that

Noot et al. teaches "that their software was developed in response to the expense and

lack of need for three-dimensional faces" and cites the paper entitled "Animated

CharToon Faces" as proof, while Poogio et al. teaches "generating three-dimensional

graphics and animations based on two-dimensional views and novel approximation

techniques". Applicant then argues "...that one of skill in the art by a preponderance of

the evidence have an understanding of the express distancing of the Noot et al.

CharToon development program from three-dimensional applications such as Poggio et

al.

Examiner respectfully submits that one of the applications for the CharToon

development program is the animation of 3d faces of avatars in a VRML environment,

see J. Hendrix, et al., "A facial repertoire for avatars", Proceedings of the Workshop

"Interacting Agents", Enschede, The Netherlands, 2000, pages 1-20, found at

http://www.cwi.nl/projects/FASE/Papers/FacialRepertoire.pdf. Examiner further submits

that the motivation for combining the method of H. Noot et al. with the teachings of

Poggio et al. is generating animation of the object/head without an explicit 3-D physical

based model of the object/head (Poggio: column 4, lines 45-49).

Applicant argues, with respect to the 35 U.S.C. 103(a) rejection of claims 20-24,

27, 28, and 30-33 under H. Noot et al. in view of Poggio et al. and Mayle et al., that

"There is no suggestion or motivation that can be found in Mayle et al. with regards to

animation in two dimensions (Noot et al.) or three dimensions (Poggio et al.)."

Examiner respectfully submits that Mayle et al. teaches that permanent card and

image data can be stored in an image database and may be retained for additional

uses, such as creation of an album of images, and that the image database uses the file

system to store image files, see column 5, lines 1-5 and 44-67. Thus Mayle et al.

teaches receiving from the sender an image of an entity to be used as the animated

entity and storing the customized model in a private database for restricted access as

claimed. Examiner respectfully submits that Noot et al. in view of Poggio et al. and

Mayle et al. teaches the limitations as claimed. Examiner further submits that the

motivation for combining the method of H. Noot et al. with the teachings of Mayle et al.

is to allow a variety of processing steps to be performed by the server (Mayle et al.,

column 2, lines 1-25; columns 13-14, lines 47-9), while preventing the unauthorized use

of personal images (Mayle et al., column 2, lines 48-63).

Applicant argues, with respect to the 35 U.S.C. 103(a) rejection of claims 1, 2, 4-6, 12, and 13 under H. Noot et al. in view of Poggio et al. and Mayle et al. and further in view of Ming Ouhyoung et al., that "given Mayle et al. teach the electronic postcard with no hint or suggestion of ability or application to an animation context, that one of skill in the art would not have sufficient motivation to combine Ouhyoung et al., whose disclosure is clearly related to facial animations over the web, with the teachings of Mayle et al. and the other teachings as well."

Examiner respectfully submits that Mayle et al. teaches that permanent card and image data can be stored in an image database and may be retained for additional uses, such as creation of an album of images, and that the image database uses the file system to store the images as image files, see column 5, lines 1-5 and 44-67. Thus Mayle et al. teaches receiving from the sender an image of an entity to be used as the animated entity and storing the customized model in a private database for restricted access as claimed. Examiner respectfully submits that Noot et al. in view of Poggio et al. and Mayle et al. and further in view of Ouhyoung et al. teaches the limitations as claimed. Examiner further submits that the motivation for combining the method of H. Noot et al. to include the teachings of Ming Ouhyoung et al. is because modifying the method of creating an animated entity for delivering a multi-media message from a sender to a receiver to include instructing the sender to mark points on the image file by indicating a corresponding point on the selected model template thereby allowing the adjustment of points of the generic facial template to the proper position during editing of the expressions.

Referring to Applicant's arguments, with regards to claim 3, please see Examiner's response with regards to claim 1 above.

Referring to Applicant's arguments, with regards to claims 7, 8 and 14, please see Examiner's response with regards to combining Noot et al. with Mayle et al., Poggio et al. and Ouhyoung et al. above.

Applicant argues, with respect to Shaw et al., "...inasmuch as Shaw et al. teaches morphing a human face with an animation face and further teaches regarding realist morphing of animal and human facial features including realistic morphing of an animal and human teeth, that one of skill in the art would certainly not have sufficient motivation or suggestion to combine Shaw et al. with the remaining references. One clear example of this, as noted above, exists in that Noot and Ruttkay have distanced their CharToon animation application from other applications in which there is considerable cost and time to produce synthetic realistic three-dimensional faces. Accordingly, inasmuch as Shaw et al. teach such realistic animations, one of skill in the art would recognize that there is an express distancing of the Noot et al. application with such teachings as in Shaw et al."

Examiner respectfully submits that one of the applications for the CharToon development program is the animation of 3d faces of avatars in a VRML environment, see J. Hendrix, et al., "A facial repertoire for avatars", Proceedings of the Workshop "Interacting Agents", Enschede, The Netherlands, 2000, pages 1-20, found at http://www.cwi.nl/projects/FASE/Papers/FacialRepertoire.pdf. Examiner further submits that the motivation for combining the method of H. Noot et al. with the teachings of

Shaw et al. is to extend the limited scope of animation techniques to include creating

moving morphs, where characters can speak, move, and emote during the morphing

process and to include parametric character creation, where features can be

sequentially added to a character the create a wide variety of resulting characters

(Shaw et al.; Abstract).

Referring to Applicant's arguments, with regards to claims 11 and 15, please see

Examiner's response with regards to combining Noot et al. with Mayle et al. and Poggio

et al. above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Roberta Prendergast whose telephone number is (571)

272-7647. The examiner can normally be reached on M-F 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ulka Chauhan can be reached on (571) 272-7782. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP 3/15/2007

KEE M. TUNG
SUPERVISORY PATENT EXAMINER